



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,062	08/01/2003	Christopher J. Dyl	30064-015001	3611
69713 7590 01/05/2010 OCCHIUTI ROHLICEK & TSAO, LLP 10 FAWCETT STREET CAMBRIDGE, MA 02138				
EXAMINER				
LEIVA, FRANK M				
ART UNIT		PAPER NUMBER		
3714				
NOTIFICATION DATE		DELIVERY MODE		
01/05/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

INFO@ORTPATENT.COM

Office Action Summary

Application No.

10/633,062

Applicant(s)

DYL, CHRISTOPHER J.

Examiner

FRANK M. LEIVA

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/CD)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Acknowledgements

1. The examiner acknowledges receipt of remarks filed 02 October 2009, no amendments entered.

Response to Arguments

2. Applicant's arguments filed 02 October 2009 have been fully considered but they are not persuasive for the following reasons:

3. Regarding the argument on page 2 of applicant's remarks; "*Combination of Walker and Nakano, The combination of Walker and Nakano would result a customer winning a prize, only to find the prize taken away after the lapse of some interval. If one were to entertain the notion that the prize is multimedia content downloaded to the customer's computer (which Walker does not actually disclose), then the combination would result in having a server reach into the customer's computer to take away his prize.*" The examiner restates the previous remark by the examiner regarding the combination of the Walker and Nakano references as being "mere conclusory statements", the examiner points the applicant's attention to MPEP §2143 rational D;

D. Applying a Known Technique to a Known Device (Method, or Product) Ready for Improvement To Yield Predictable Results. To reject a claim based on this rationale, Office personnel must resolve the Graham factual inquiries. Then, Office personnel must articulate the following:

- (1) a finding that the prior art contained a "base" device (method, or product), (Walker; win activated product), upon which the claimed invention can be seen as an "improvement;"
- (2) a finding that the prior art contained a known technique that is applicable to the base device (method, or product), (Nakano; dissemination control of a product);
- (3) a finding that one of ordinary skill in the art would have recognized that applying the known technique would have yielded predictable results and resulted in an improved system, (the fact that once the product exchanged by Walker is a copyright protected

product, the need to look for already invented methods for controlling the dissemination of the product is required before licensing for sale of the product); and
(4) whatever additional findings based on the Graham factual inquiries may be necessary, in view of the facts of the case under consideration, to explain a conclusion of obviousness.

The rationale to support a conclusion that the claim would have been obvious is that a particular known technique was recognized as part of the ordinary capabilities of one skilled in the art. One of ordinary skill in the art would have been capable of applying this known technique to a known device (method, or product) that was ready for improvement and the results would have been predictable to one of ordinary skill in the art. If any of these findings cannot be made, then this rationale cannot be used to support a conclusion that the claim would have been obvious to one of ordinary skill in the art. The rationale comes from the basis that Walker can sell anything that can be found in any virtual or WEB store including CDs, MPEGs, or Videos (transmissive in nature), that have a limited shelf life, and to sell any of these products Walker would have to add any limiting copyright protection system including that of Nakano.

4. Regarding the argument on page 2 of applicant's remarks; "*Walker does not disclose electronically transmitting the prize to the customer. In Walker, the only way the customer gets his prize is by shipment.*" The examiner points to column 2 lines 56-62 of Walker, "*means for transmitting the product to the customer if the outcome is a winning outcome*".

5. Regarding the argument on page 3 of applicant's remarks; "*Walker's customers do not play an online game on customer devices 200-202. According to Walker, the customers use their devices to select a product, to pay a fee to play the game, and to receive the proceeds associated with the outcome of the game. The game itself is played at the retail controller, without the customer's participation. Neither the customer device nor the customer are needed to play the game.*" The examiner must take notice that what is considered playing a game of chance is different than a game of sports, for those of ordinary skill in the art, playing a

lottery game only requires the purchase of the bet, and without going into further detail, the place of purchase or device is considered in the field of endeavor, the gaming area.

6. Regarding the argument on page 4 of applicant's remarks; "*Second, the cited text does not describe the customer device receiving information indicating that the customer "has completed a game challenge." According to the cited text, if the customer wins, "the product is shipped to the customer."*" The examiner points to the cited text in column 2, lines 56 – 62, no other comment.

7. Regarding the argument on page 4 of applicant's remarks; "*Third, in Walker, the customer does not actually complete any game challenge. In fact, after paying the fee, the customer does nothing more except await the outcome of the game. Nothing the customer does can influence the game's outcome. Accordingly, there is no "game challenge" in the game described by Walker.*" The examiner points that there is no challenge in claim 1, but there is in claims 12 and 22, and to answer to the argument, a challenge can be many things such as a challenge to a duel or a bet on the outcome of a game such as to say "I'll bet you 5 dollars the that the Nicks are going to win by 5 points", such a statement is consider a bet and a challenge to accept the bet, thus the game challenge is accepting the terms of the game and placing the bet.

8. Regarding the argument on page 5 of applicant's remarks; "*However, even if such items were for sale, nowhere does Walker suggest that the multimedia content carried by these media are hosted for transmission. Walker discloses shipping products to customers. Thus, all the evidence suggests that multimedia content for sale is provided on some physical medium, which the customer physically possesses. There is no teaching or suggestion of hosting any multimedia content for transmission.*" The examiner points again to column 2 lines 56-62 where Walker specifically discloses transmission of the product. And by virtue of the fact that the rejection is based on obviousness, the most commonly known transmissible products at the time of the applicant's invention are known as "MPEGs" or multimedia files for music and videos or downloadable CDs and DVDs. Also claim 1 does not host

multimedia content; claim 1 is directed to hosting a game that has as prizes multimedia content, the content is not played or viewed on the server of applicant's invention.

9. Regarding the argument on page 6 of applicant's remarks directed to Nakano; *"Nakano discloses a video-recorder that knows how long certain content has been saved. When the shelf life of that content is exceeded, the video recorder deletes it."* *"Nakano cannot disclose this limitation because there is no client/server relationship disclosed in Nakano. The Nakano video recorder does not instruct a client to delete content. In addition, there is no server that instructs the Nakano device to delete content. Instead, the Nakano device decides when it is time to delete certain content, and then proceeds to delete it."* The examiner points to Nakano paragraph [0061] where the CPU of the unit deletes the content according to the preset instruction information transmitted along with the content for its viewable time period. The origination of such instruction given at the time of purchase by the vendor as is the norm for such things as copy protected products.

10. Regarding the argument on page 7 of applicant's remarks; *"Motivation to combine", "The "known technique," which would allegedly improve the base method, is deleting multimedia content from a disk after lapse of some interval. The result of applying the known technique to the base method would be to take away multimedia the customer's multi-media content after some time has passed. This would allegedly improve the base method by making the shopping experience more exciting in some way. The Office has not explained why one of ordinary skill in the art would have found the deletion of multimedia content to be any sort of improvement to the base method. Specifically, the Office has not shown why one of ordinary skill in the art would find that deleting the shopper's multi-media content in the future would enhance his shopping experience."* The examiner specifically states that without the ability to limit dissemination of such products while transmitting the product, such product with copy protection could not be transmitted and thus would not be available to the virtual store to sell and limiting the stores products. By having this limiting feature the store is able to enhance the stores product line and thus enhance the customer's experience.

11. Regarding the argument on page 8 of applicant's remarks; *"Applicant agrees that web stores can sell multimedia content. However, the Office has not provided any evidence that at the time of the invention, there existed "virtual or web stores" that sold multimedia content with a limited shelf life. Accordingly, the Office's rationale is not based on any evidence of record, but rather on mere speculation."* The examiner reminds the applicant that well before the present application there was at least one well known distributor of time limited viewing content called "Pay-per-View", not to mention the early 1980's distribution of pornographic materials to be viewed on cable television where one would purchased viewing for an entire day or six hours, etc.

12. Regarding the argument on pages 8 and 9 of applicant's remarks directed to claims 2, 11 and 14 have been answered above.

13. Regarding the argument on page 9 of applicant's remarks directed to claims 3, 8 and 16; *"As disclosed in column 11, Walker maintains a purchase history for a particular customer. But the customer devices [i.e. clients] do not send this purchase history to the retail controller [i.e. the server] as required by claim 3."* The examiner maintains that the client device must identify itself and as such indicate the fact that it has previously purchase or otherwise a record of the history would not be there. How else is the system of Walker to maintain purchase history if not by linking the purchases to the client devices.

14. Regarding the argument on page 10 of applicant's remarks directed to claims 4, 9 and 17; *"The Office's reasoning makes no sense. Walker's history is a purchasing history. There is no apparent relationship between the customer's purchasing history and whether or not to delete certain content from the disk."* The office action makes more sense when the entire disclosure is introduced, *"Nakano further discloses wherein instructing the first client to delete the goal-activated content comprises instructing the first client to delete goal-activated content stored on the first client in accordance with the history profile, (§ [0112-117]), wherein the system according to the pause, stop and play commands history calculates how much time is left for viewing the content."* It is understood that Nakano in order to give the client usage

time, keeps record of all the pauses during the viewing of the material and thus the time is calculated using the history profile of the client.

15. Regarding the argument on page 10 of applicant's remarks directed to claim 5; the question of inherency is introduced. During this application we have discussed that all of these time limiting features are directed to copyrighted materials and there to stop other from creating multiple unlicensed copies of the product. It is not speculation to say the encrypting the material is inherent, because it is necessary to hide the time limiting codes from tampering, or otherwise the system would failed.

16. Regarding the argument on page 13 of applicant's remarks directed to claim 6; *"Claim 6 requires "transmitting, to the server, information indicating that a player has completed a challenge from the on-line game" According to claim 6, information goes to the server, not from the server. To the extent winning the lottery is regarded as completing a challenge in Walker, the customer does not transmit any such information back to the retail controller. In fact; it would make no sense at all for the customer to do so. After all, it was the retail controller that determined the outcome of the random process. So it is the retail controller that first becomes privy to the news that the customer has won the lottery."* The examiner expands on the Walker column 4 lines 6-25 and explains that the client device used to create the bet has already indicated to the server that the challenge has been completed, the server generating the winning lot simply indicates the validity of the challenge being positive or negative in outcome.

17. Regarding the argument on page 14 of applicant's remarks directed to claims 10 and 18; *"Claim 10 recites; receiving an instruction to delete all goal-activated content Nakano discloses a video recorder that deletes only content that has been stored for too long. Nakano does not disclose deleting all content. The Office suggests that one of ordinary skill in the art would have found it obvious to delete all content "to maximize improvement of Walker/Nakano invention by making it more versatile and easy to use."*⁸ *The Office's statement is a "mere conclusory statement" of the type forbidden by KSR v. Teleflex. It offers no reason for why one*

would have found it obvious to modify Nakano by allowing receipt of an instruction to delete all goal-activated content. Contrary to the Office's position, one of ordinary skill in the art would have recognized that deleting all content would result in deleting video programming that has only been recently placed on disk. This would defeat the purpose of Nakano, which is to delete only video programming that has been stored on disk for too long." The examiner's position on a broad claim such as claim 10 and 18 mentions no reason for which the server would delete all content, and it is the examiner's position that the server following the previous claims to delete content only after reviewing the client's history profile would have realized all the content used or past due and clear all content. It would be inherent in conclusion that if all the content has expired to delete all the content.

18. Regarding the argument on page 14 of applicant's remarks directed to claims 12 and 15; "Claim 12 recites; 'requesting goal-activated content in response to the completion of the game challenge.' Thus, according to claim 12, the player first completes the challenge. After (and not before) completing the challenge, he can request the goal-activated content. In Walker, the order would be backwards: the player selects a prize, and then enters the lottery. He does not enter the lottery and then select his prize upon winning the lottery." Examiner points to Walker column 2 lines 18-26, where the player after completing the challenge decides not to purchase the item, but if the client had decided to purchase the item, the client then would have had to (inherent), request the product. Completing the challenge does not mean a positive outcome; simply that the game is over.

19. Regarding the argument on page 15 of applicant's remarks directed to claim 13; "Claim 13 recites; 'transmitting the goal-activated content to the client over a network.' In Walker, products are shipped to the customer by conventional mail, and not transmitted 'over a network' as required by claim 13. The only data transmitted to the client over any sort of network is a web page announcing the unfavorable outcome of the game. With regard to the transmission of instructions to delete goal-activated content, Applicant draws attention to the discussion of Nakano in connection with claim 1. Claim 13 also requires transmitting to the

client, over the network, instructions to delete the goal-activated content. In Nakano, the instruction to delete content originates locally. There is no need to transmit deletion instructions "over the network" as recited in the claim." As covered above Walker column 2 lines 56-62 states, "means for transmitting the product to the customer if the outcome is a winning outcome", since Walker communicates over a network, it is understood that all transmissions will use the network.

20. Regarding the argument on page 16 of applicant's remarks directed to claim 20; *"Nakano discloses a device that deletes content stored locally on its disk. Nakano's device does not transmit a deletion instruction to some other device. Therefore, there is no processor that is configured for "causing the transceiver to transmit a deletion instruction." The Office concedes that Nakano fails to teach anything about "goal-activated content." To remedy this deficiency, the Office draws attention to Walker. As noted above, Nakano does not disclose a processor configured as claimed. Nakano's lack of such teaching does not depend on whether the content is goal-activated or otherwise. Thus, to the extent Walker discloses goal-activated content (which, as discussed in connection with claim 1, it does not), such disclosure would be irrelevant. Even if the video programming described in Nakano were goal-activated content, Nakano would still fail to teach the limitations of claim 20."* Nakano's invention is directed to the reproduction for transmission of copyrighted materials and transmission of such content is inherent in "presentation of viewable content", and the determination of such transmission is dependent on the regulations around the "viewable time period". And the deletion instruction imbedded in the encrypted content is transmitted along with the content.

21. Regarding the argument on page 18 of applicant's remarks directed to claim 21; *"Walker does not disclose a multiplayer game. In Walker's game, a player pays a fee and waits for an outcome. No other players are necessary. Additionally, other players who play concurrently have no effect on each others outcomes. To the extent Walker's lottery is regarded as a game at all, it is a single player game that can be played by many people at the same time, like a slot machine. The game itself does not require multiple players."* To beg the applicant's understanding of a Lottery, a Lottery cannot exist without multiple players involved to

form a parimutuel pot for winnings, as are the well known Class II games recognized since 1997.

"Claim 21 also recites; "maintaining a state for each player in a multiplayer game." The Office asserts that this limitation is disclosed in FIG. 8. FIG. 8 is a flow chart showing the steps leading up to the game, and showing the steps that occur after the game is played. The game itself is entirely within the box labeled "execute game." There is no disclosure of maintaining a state for each player during the execution of the game." The examiner understands by the statement of maintaining a state for each player to mean the receiving of the request, defining the game to play, receiving the fee, executing the game, realizing a winning or losing outcome, crediting the customer or providing the product to the customer, all states of the game for each player.

22. Regarding the argument on page 19 of applicant's remarks directed to the 35 USC §112 1st paragraph rejection of claim 1; The examiner thanks the applicant for pointing out where the support in the specifications for the amended limitation was located, and withdraws the rejection.

Claim Rejections - 35 USC § 103

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

24. **Claims 1-19 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (US 6,443,843 B1), in view of Nakano (US Pub. 2002/0120667 A1).**

25. Walker discloses a betting game where upon winning, the prize is a product which includes upon any type of sale product including Objects, content, media etc.; Nakano discloses a system of controlling distributing of multi-media content such as MPEGs by deleting the content from the storage if the allotted time for use has expired.

26. Regarding claims 1, 6 and 13; Walker discloses a method of providing a product (content, DVDs, CDs, MPEGs, etc.), in an online game, the method comprising: at a server hosting, for transmission, of product certificates (multi-media content) designated as goal-activated content for an online game;

receiving information indicating that a plurality of players is playing the online game on each of a corresponding plurality of clients, (col. 6:35-52), where a plurality of customers linked through a network connection play simultaneously, the customers assigned registered devices which will have to sign on and indicate presence in the network; receiving information indicating that a first player from the plurality of players has completed a game challenge associated with the goal-activated content, (col. 4:6-25); in response to receiving the information indicating that a first player from the plurality of players has completed a game challenge associated with the goal activated content transmitting the goal-activated content to a first client associated with the first player, (col. 1:60- 2:10, col. 2:56-62, col. 3:50-56 and col. 4:6-25);

Walker fails to disclose the specifics limiting dissemination of multi-media content; Nakano discloses distributing copy protected media and limiting the dissemination of multi-media content including instructing the client to delete the content stored on the client, (¶ [0061]).

All of the component parts are known in Walker and Nakano the only difference is that dissemination or sale of a copy protected MPEG is describe in the virtue of a WEB store and Walker describe the purchasing or winning of products from a WEB store, including such as MPEGs or Videos. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to use all available WEB store teachings for the stores used in Walker's invention.

27. Regarding claims 2, 11 and 14; Walker discloses wherein transmitting the goal-activated content comprises transmitting the goal-activated content to the first client in response to a determination that the first player has completed the game challenge, (fig. 8, col. 2:56-62) the challenge of course is the winning outcome.

28. Regarding claims 3, 8 and 16; Walker discloses receiving a history profile from the first client; maintaining a history profile having information about goal-activated content received from the server and sending the history profile to the server, (fig. 5, col. 10:51-67 and 11:30-39), the history profile such as a customer identification number would be received by the system, Indicating the customer's rating and latest purchases and winnings.

29. Regarding claims 12 and 15; Walker discloses wherein requesting goal-activated content from the server comprises requesting goal-activated content in response to the completion of the challenge, and authentication (col. 14:11-22, fig. 5).

30. Regarding claims 4, 9 and 17; Walker and Nakano disclose all the limitations of claims 1, 3, 6 and 8 as applied above and Nakano further discloses wherein instructing the first client to delete the goal-activated content comprises instructing the first client to delete goal-activated content stored on the first client in accordance with the history profile, (¶ [0112-117]), wherein the system according to the pause, stop and play commands history calculates how much time is left for viewing the content. It would have been obvious upon reading Nakano to include checking history for proper time periods spent or history of the account to control the deletion system, allowing the player the flexibility to observe the content at his/hers own timeline. It would be predictable to add the history profile to the time limiting aspect of protected content to the already modified Walker/Nakano invention as declared in claims 1, 6 and 13.

31. Regarding claim 5; Walker and Nakano disclose all the limitations of claim 1 as applied above and Nakano further discloses encrypting the goal-activated content prior

to transmission to the first client, (¶ [0058, 0105]), inherent in MPEG files is coded/encrypted materials for the purpose of limiting play to specific media providers. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to use the time encryption method in Nakano to establish the viewable period.

32. Regarding claims 7 and 19; Walker and Nakano disclose all the limitations of claims 6 and 13 as applied above and Nakano further discloses wherein receiving an instruction from the server to delete goal-activated content comprises receiving, upon initialization of an executable program, an instruction to delete the goal-activated content, (¶ [0068]), as discussed above, Nakano limitations directed to the deletion of content are introduced into Walkers Web stores and thus would all be predictable included parts of the combination of Walker and Nakano.

33. Regarding claims 10 and 18; Walker and Nakano disclose all the limitations of claims 6 and 13 as applied above and Nakano further discloses wherein receiving an instruction from the server to delete goal-activated content comprises receiving an instruction to delete all goal-activated content stored on the client, (¶ [0006]). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include the "delete all content" feature of Nakano with the Walker/Nakano invention as described in claims 1, 6 and 13 as it would to include all special features taught by Nakano upon reading Nakano's invention. It would be obvious to try all elements taught in the invention in order to attempt to maximize improvement of Walker/Nakano invention making it more versatile and easy to use.

34. Regarding claim 21; Walker/Nakano as described above in claims 1, 6 and 13; disclose a method for controlling access to multi-media content by clients in a multiplayer game, the method comprising: maintaining a state for each player in a multiplayer game, (Walker col. Fig. 8); storing multi-media content for distribution to clients associated with the players in the game, including storing content in association with each of a plurality of states that can be reached by at least some of the players,

(Walker col. 3:50-58); determining that a first player associated with a first client has reached a first state, and permitting access to said multi-media content by the first player, (Walker fig. 8), wherein the combination is obvious to one of ordinary skill in the art as described above in claims 1, 6 and 13.

35. Regarding claims 22 and 23; Nakano/ Walker disclose all the limitations of claim 21 as applied above and from which claims 22 and 23 depend on, yet Nakano is silent to the type of content being of goal activated. Walker as disclose above is of analogous art and discloses the achievement of items or content upon the reaching of certain goals. Walker discloses with respect to claim 22; wherein the state for a player comprises the state of having completed a game challenge, (col. 2:56-62), where the game is continually judging the state of the player (win/loss) in each game challenge; the challenge of winning the game. Also Walker discloses with respect to claim 23; wherein determining whether the first player associated with the first client has reached the first state comprises determining whether the player has completed a game challenge, (col. 2:56-62), (has the player won?). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the well-known goal activated features of Walker into the invention of Nakano in order to be a more interesting and entertaining experience for a subscriber to the WEB store.

36. Claims 20 is rejected under 35 U.S.C. 103(a) as being obvious over Nakano (US Pub. 2002/0120667 A1), in view of Walker (US 6,443,843 B1).

37. Regarding claim 20; Nakano discloses:

A computer-based multi-media content dissemination-limiting apparatus,
(Abstract).

A non-volatile memory element storing data representative of multi-media content, (¶ [0056]), hard disk.

A transceiver for receiving a connection request from a remote client on a network, ([¶ [0055]]), Internet network connection inherently contains receivers/transmitters for connection.

A processor configured for determining that the content is to be transmitted to the client; causing the transceiver to transmit the goal-activated content, ([¶ [0011] and [0075]]).

Causing the transceiver to transmit a deletion instruction for deleting the goal-activated content from the client, ([¶ [0068]]), instruction of deletion having been sent.

Nakano is silent to the nature of the content to being goal activated yet it speaks of being a game content.

Walker discloses designating content as goal-activated content, (col. 17:65-col. 18:2)), disclosing the need for the player to reach a goal or winning the game before he/she is allowed to that content. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include the goal activated feature of Walker in Nakano's invention to make a WEB store more interesting for subscribers. More so both references describe forms of obtaining products via a WEB store and any combination of the teachings would be obvious to one of ordinary skill in the art at the time of applicant's invention and predictable.

Examiner's Note

38. Examiner has cited paragraphs and figures in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **FRANK M. LEIVA** whose telephone number is **(571)272-2460**. The examiner can normally be reached on **M-Th 9:30am - 5:00pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter D. Vo can be reached on **(571) 272-4690**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dmitry Suhol/
Supervisory Patent Examiner, Art
Unit 3714

FML

Application/Control Number: 10/633,062

Page 17

Art Unit: 3714

12/29/2009